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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/514,033	02/25/2000	Donald L. Brodigan	1589 (USW0563PUS)	7568

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EXAMINER	
SHANG, ANNAN Q	

ART UNIT	PAPER NUMBER
2614	7

DATE MAILED: 02/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/514,033	BRODIGAN ET AL.	
	Examiner	Art Unit	
	Annan Q Shang	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 November 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-11* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-11* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-11, are rejected under 35 U.S.C. 103(a) as being unpatentable over **Laubach et al (6,081,533)**.

As to claim 1, note the **Laubach et al** reference figures 1 and 5, a method and apparatus for an application interface module in a subscriber terminal unit and further disclose a method for providing personalized programming over a data path, the data path extending between a service provider and a set top box, the service provider being connected to a data network and having an address. The claimed method comprising...is met as follows:

the claimed "establishing a communication path between a broadband digital terminal and the set top box..." is the Head End Digital Communications Controller (HCX) 103, (figs. 1, 2 and col. 4, lines 22-48 and line 49-col. 5, line 9), note that HCX 103 sends packet data "private data packets" to Subscriber Terminal Unit (STU) 106, which contains various information, application interface to enable video-on-demand functionalities, VOD service provide address, virtual connection information, etc., (col. 11, lines 49-62 and col. 16, lines 41-64), note that the virtual connection information is used to establishes virtual connection path "establishes a communication path" between

Fiber Terminal (FT) 205 "a broadband digital terminal" and the STU 106 (col. 5, lines 30-51), where Headend 201 is connect to Backend LAN/WAN packet Network 101, ATM Network, FT 205 and STUs 106, note further that Headend "Service Provider" receives packets data from LAN/WAN 101 and converts into ATM cells and sends the packet data over the ATM Network to STU 106 via FT 205, and the packet data is used to established virtual interactive video-on-demand (VOD) communication path (col. 4, lines 54-64 and col. 16, lines 37-64) "pay-per-view path" between the target STU(s) 106, FT 205 and the Headend based on the address.

Laubach fails to explicitly teach establishing an impulse pay-per-view (IPPV) path.

However, Examiner maintains that any kind of user request video programming requires establishment of a communication path between the user and the source of the video program and Examiner, gives official notice to the fact it is well known in the area of IPPV to establish such a path to facilitate the purchase of PPV programming, hence Examiner submits that one of ordinary skill in the art at the time of the invention would have been motivated to modify the teaching of Laubach to apply them to PPV environment in order to provide a more robust means for delivering of user request programs, by providing an alternative means of delivering user request programs. Furthermore IPPV while offering program options is more bandwidth efficient as is well known in the art.

As to claim 2, Laubach further where data packets between frames of a video transmission, note col. 16, lines 37-41, note that the ATM cells contains data packets and video data.

As to claim 3, Laubach further teaches where the VOD is prerecorded programming and transmitted on demand, note col. 16, lines 49-54.

As to claim 4, Laubach further discloses where the video transmission is real-time programming, note col. 16, lines 49-54.

As to claim 5, note the **Laubach et al** reference figures 1 and 5, a method and apparatus for an application interface module in a subscriber terminal unit and further disclose an interactive video/data system for interacting with a destination address on a network, comprising the following:

the claimed "a broadcast source at the destination address for transmitting private data packet over a private virtual channel on the network... is met by Headend 103 (figs. 1, 2, col. 4, lines 18-49 and line 49-col. 5, line 9), note that HCX 103 at the Headend 103 "Service Provider" receives packets data "private data packets" from LAN/WAN Packet Network 101 and converts into ATM cells and sends over a private virtual channel (col. 5, lines 30-52 and col. 11, lines 49-62) on the ATM Network to STU 106 via FT 205, note that the ATM cells contains application interface information and Headend address, virtual connection information, etc;

the claimed "broadband digital terminal...." is met by Fiber Terminal (FT) 205, (col. 4, lines 65-col. 5, line 9), note that FT 205 receives ATM cells over the ATM Network "private virtual channel" from Headend 103 or a broadcast source on the

LAN/WAN packet Network 101, where the STU(s) 106 receives the ATM cells from the FT 205 and cooperates with the FT 205 and the broadcast source and enables interactive video-on-demand (VOD) virtual communication path (col. 4, lines 54-64 and col. 16, lines 37-64) "an impulse pay-per-view path" extending from the target STU(s) 106 to the FT 205 and over virtual connection "private virtual channel" to the Headend or broadcast source at the destination address, where the data path allows application interface information to be communicated in real-time between STU(s) 106 and the broadcast source.

Laubach fails to explicitly teach establishing an impulse pay-per-view (IPPV) path.

However, Examiner maintains that any kind of user request video programming requires establishment of a communication path between the user and the source of the video program and Examiner, gives official notice to the fact it is well known in the area of IPPV to establish such a path to facilitate the purchase of PPV programming, hence Examiner submits that one of ordinary skill in the art at the time of the invention would have been motivated to modify the teaching of Laubach to apply them to PPV environment in order to provide a more robust means for delivering of user request programs, by providing an alternative means of delivering user request programs. Furthermore IPPV while offering program options is more bandwidth efficient as is well known in the art.

As to claim 7, the claimed "an optical network unit..." is met by Fiber Node (FN)

211, note figure 2 and col. 5, lines 6-14, note that FN 211 is between FT 205 and STU(s) 106.

As to claim 8, the claimed "network interface device..." is met by Television Interface Module 1501 or Application Network Interface 1603, note figures 15, 16 and col. 16, line 37+, note that this interface are within the STU(s) and connects to FN 211.

Claim 9 is met as previously discussed with respect to claim 2.

As to claim 10, the claimed "a local server..." is met by Server 208.

As to claim 11, the claimed "an Internet service provider..." is inherent to the LAN/WAN data.

Response to Arguments

3. Applicant's arguments with respect to claims 1-11 have been considered but are moot in view of the new ground(s) of rejection discussed above. This Office Action is Non-Final.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Mimura et al (6,557,031) disclose transport protocol conversion method and protocol conversion equipment, and further disclose transmitting private data over a network to STB (figs. 8, 9 and col. 10, lines 13-42, col. 12, lines 18-47 and col. 13, line 61-col. 14, line 44)

Wasilewski et al (6,510,519) disclose conditional access system (col. 12, lines 32-60, col. 18, lines 9-24 and col. 22, lines 48-67)

Hendricks et al (6,201,536) disclose network manager for cable television system headends, offering IPPV services (fig. 6a and col. 18, lines 1-38)

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Annan Q Shang** whose telephone number is **703-305-2156**. The examiner can normally be reached on **700am-500pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **John W Miller** can be reached on **703-305-4795**. The fax phone number for the organization where this application or proceeding is assigned is **703-872-9306.**

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the **Electronic Business Center (EBC) at 866-217-9197 (toll-free).**

Annan Q. Shang.

JOHN MILLER
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